

Small plant. An alcohol fuel plant that produces (including receives) not more than 10,000 proof gallons of spirits per calendar year.

Spirits or distilled spirits. The substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), but not fuel alcohol unless specifically stated. The term does not include spirits produced from petroleum, natural gas, or coal.

Transfer in bond. The transfer of spirits between alcohol fuel plants or between a distilled spirits plant qualified under 26 U.S.C. 5171 and an alcohol fuel plant.

(26 U.S.C. 5181)

§ 19.663 Application of other provisions.

The provisions of 26 U.S.C. chapter 51 and the regulations in subparts A through W of this part do not apply to alcohol fuel plants except for the following:

- (a) 26 U.S.C. 5181;
- (b) The definitions contained in § 19.1, unless the same term is defined in this subpart;
- (c) Any provision incorporated by reference in this subpart;
- (d) Any provision requiring the payment of tax; and
- (e) Any provision applicable to distilled spirits that deals with penalty, seizure, or forfeiture.

(26 U.S.C. 5181)

§ 19.665 Alternate methods or procedures.

(a) *General.* The appropriate TTB officer may approve the use of an alternate method or procedure that varies from the regulatory requirements in this subpart or from any regulatory requirements in subparts A through W of this part that have been incorporated by reference in this subpart. The appropriate TTB officer may approve the use of an alternate method or procedure only if the proprietor shows good cause for its use and the alternate method or procedure:

- (1) Is not contrary to law;

- (2) Will not have the effect of merely waiving an existing regulatory requirement;

- (3) Is consistent with the purpose and effect of the method or procedure prescribed in this subpart;

- (4) Provides equal security to the revenue; and

- (5) Will not cause an increase in cost to the Government and will not hinder TTB's administration of this subpart.

(b) *Exceptions.* TTB will not authorize the use of an alternate method or procedure relating to the giving of any bond, or to the assessment, payment, or collection of tax.

(c) *Prior approvals.* Alternate methods or procedures in effect prior to April 18, 2011, which are not contrary to the regulations in this part, are preserved until renewed unless revoked by operation of law due to the enactment of law that is contrary to the alternate method or procedure.

(26 U.S.C. 5181)

§ 19.666 Application for and use of an alternate method or procedure.

(a) *Application.* If a proprietor wishes to use an alternate method or procedure as described in § 19.665, the proprietor must submit a written letterhead application to the appropriate TTB officer for approval. The application must identify the method or procedure specified in the regulation, must describe the proposed alternate method or procedure in detail, and must explain why the alternate method or procedure is needed.

(b) *Approval and use.* The proprietor may not use an alternate method or procedure until the appropriate TTB officer has in writing approved the proprietor's letterhead application. During the period that the proprietor is authorized to use the alternate method or procedure, the proprietor must comply with any conditions imposed on its use by TTB. TTB may withdraw the approval to use the alternate method or procedure if TTB finds that the revenue is jeopardized, that the alternate method or procedure hinders effective administration of the laws or regulations, that the proprietor has violated any of the conditions imposed by TTB, or that the circumstances that gave

rise to the need for the alternate method or procedure no longer exist.

(c) *Retention.* The proprietor must retain each alternate method or procedure approval as part of the proprietor's records and must make the approval available for examination by TTB officers upon request.

(26 U.S.C. 5181)

§ 19.667 Emergency variations from requirements.

(a) *Application.* A proprietor may request emergency approval of the use of a method or procedure relating to construction, equipment, and methods of operation that represents a variance from the requirements of this subpart or from any regulatory requirement in subparts A through W of this part that have been incorporated by reference in this subpart. When a proprietor wishes to use an emergency method or procedure, the proprietor must submit a written letterhead application to the appropriate TTB officer for approval; the proprietor may send the application via regular mail, email, or facsimile transmission. The application must describe the proposed emergency method or procedure and the emergency situation it will address. For purposes of this section, an emergency is considered to exist only if it results from a weather or other natural event or from an accident or other event not involving an intentional act on the part of the proprietor.

(b) *Approval.* The appropriate TTB officer may approve in writing the use of an emergency method or procedure if the proprietor demonstrates that an emergency exists and the proposed method or procedure:

- (1) Is not contrary to law;
- (2) Is necessary to address the emergency situation;
- (3) Will afford the same security and protection to the revenue as intended by the regulations; and
- (4) Will not hinder the effective administration of this subpart.

(c) *Terms of emergency method or procedure approval and use.* (1) The proprietor may not use an emergency method or procedure until the application has been approved by TTB except when the emergency method or procedure requires immediate implementation to

correct a situation that threatens life or property. In a situation involving a threat to life or property, the proprietor may implement the corrective action, immediately notify the appropriate TTB officer by telephone of the action and then file the required written application as soon as possible. Use of the emergency method or procedure must conform to any conditions specified in the approval.

(2) The proprietor must retain the emergency method or procedure approval as part of the proprietor's records and must make the approval available for examination by TTB officers upon request.

(3) The emergency method or procedure will automatically terminate when the situation that created the emergency no longer exists. TTB may withdraw the approval to use the emergency method or procedure if TTB finds that the revenue is jeopardized, that the emergency method or procedure hinders effective administration of the laws or regulations, or that the proprietor has failed to follow any of the conditions specified in the approval. When use of the emergency method or procedure terminates, the proprietor must revert to full compliance with all applicable regulations.

(26 U.S.C. 5181)

LIABILITY FOR TAXES

§ 19.669 Distilled spirits taxes.

(a) Proprietors may withdraw distilled spirits free of tax from an alcohol fuel plant if the spirits are withdrawn exclusively for fuel use in accordance with this subpart. However, TTB will require payment of the tax if the spirits are diverted to beverage use or to another use not authorized by this subpart.

(b) The following provisions of this part apply to distilled spirits for fuel use:

- (1) Imposition of tax liability (§§ 19.222, 19.223, and 19.225);
- (2) Assessment of tax (§§ 19.253 and 19.254); and
- (3) Claims for tax (§§ 19.262 and 19.263).

(26 U.S.C. 5001, 5181)